

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of)	
)	
GTE Corporation)	
Transferor,)	
)	
And)	CC Docket No. 98-184
)	
Bell Atlantic Corporation)	
Transferee,)	
)	
For Consent to Transfer Control of Domestic)	
And International Section 214 and 310)	
Authorizations and Applications to Transfer)	
Control of a Submarine Cable Landing License)	
Declaratory Ruling.)	
_____)	

**VERIZON’S REPLY TO COMMENTS REGARDING VERIZON’S REQUEST
FOR WAIVER OF CERTAIN BELL ATLANTIC/GTE MERGER CONDITIONS**

Several parties oppose Verizon’s narrow request to waive the application of certain Bell Atlantic/GTE merger conditions to Verizon’s new DSL Over Resold Lines (“DRL”) service. None of these parties, however, provide any reason to deny the waivers that are needed to offer the very service that the parties themselves claim to want. On the contrary, they spend the bulk of their efforts arguing that the Commission should impose a host of new requirements that are unrelated to the service at issue here; that are found no where in either the merger conditions or the Commission’s rules; and that in many instances, would prejudice issues currently pending in ongoing rulemaking proceedings. Their claims, however, have little to do with the waivers at issue here, and are wrong. Verizon’s waiver request should be granted.

As an initial matter, the bulk of the claims by AT&T have little to do with the waiver request at issue here. They are also wrong. First, AT&T argues that the purpose of the nine-month sunset provision is to give the Commission time to adopt further requirements to protect advanced services competition. AT&T at 2. AT&T is flatly wrong. There is nothing in either the Commission's *Merger Order* or the merger conditions themselves that even remotely supports the fact that the conditions contemplated that the Commission would adopt new requirements for Verizon's advanced services operations prior to the sunset of the structural separation requirements. Quite the contrary, the conditions expressly provide that the structural separation requirements will terminate automatically without further Commission action, and the merger conditions already set forth certain provisions with which Verizon must comply once these requirements do terminate. *See* Section 12 of the Bell Atlantic/GTE Merger Conditions.

Second, AT&T argues the Commission should require Verizon to describe how it plans to re-integrate its separate affiliate before granting Verizon's requests. Again, however, section 12 of the merger conditions already specify the requirements with which Verizon must comply once the structural separation requirements terminate, whether or not the advanced services operations are formally "re-integrated." Nowhere do the merger conditions require any kind of showing before the structural separation requirements terminate.

Third, AT&T demands that the Commission "clarify" carriers' rights to access Verizon's advanced services facilities before addressing Verizon's requests. AT&T is simply attempting to circumvent ongoing Commission rulemakings to create new

unbundling obligations. For example, AT&T asks the Commission to find that carriers are entitled to access Verizon's next generation digital loop carrier loops as UNEs and to determine how Verizon would provide unbundled access to hybrid copper/fiber loops all in the context of the Bell Atlantic/GTE merger proceeding. AT&T at 7. AT&T's call for "clear federal rules on these issues," effectively asks the Commission to prejudge the very issues that are the subject of a pending rulemaking proceeding. *See Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Further Notice of Proposed Rulemaking, 16 FCC Rcd 2101 (2001).

Worse yet, by asking the Commission to find Verizon is obligated to resell its DSL service over UNE-platform lines, AT&T and Worldcom ignore the fact that the Commission has previously rejected AT&T's argument by finding that an incumbent is not required to place its DSL service on UNE-P lines in the first place. *See Application of SBC Communications Inc, et. al., for Authorization to Provide In-region, InterLATA Service in Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354 at ¶ 330 (2000) ("We reject AT&T's argument that we should deny this application on the basis of SWBT's decision to deny its xDSL service to customers who choose to obtain their voice service from a competitor that is using the UNE-P"). If incumbents are not required to offer DSL service on UNE-P lines in the first instance, they certainly can not be required to resell DSL on UNE-P lines. More recently, the Commission has declined to obligate incumbents to resell "DSL service in conjunction with voice service provided using the UNE loop or UNE-P." *See Application of Verizon New York Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, CC Dkt. No. 01-100, FCC 01-208 at ¶ 33 (rel. July 20, 2001).

Fourth, Worldcom argues that grant of the instant waiver request would provide Verizon's separate data affiliate with an unfair competitive advantage. Worldcom at 4. Worldcom is wrong. Worldcom's fundamental complaint goes to how Verizon will operate once the structural separation provisions are no longer in place regardless of whether this results from a waiver or from the automatic termination under the sunset provisions. However, as noted above, the merger conditions already specify how Verizon's advanced services will operate once the structural separation requirements are no longer in place. And these provisions are in addition to the rules of general applicability that govern all other carriers. *See* Section 12 of the Merger Conditions.

Lastly, several parties contend that the Commission should not waive the merger-related performance measurements and the accompanying performance assurance plan for Verizon's new DRL service. The parties are wrong. Even though Verizon had not yet completed all of the necessary OSS system changes required to fully automate the DRL ordering processes, Verizon nevertheless fast-tracked the roll out of this new service. Verizon should not have to risk paying remedies just because it diligently responded to carrier requests to provide the DRL service as quickly as possible. Unlike other services to which the merger-related performance measurements apply, the product development and OSS implementation process for the DRL service was truncated to expedite the service's commercial availability. Verizon should therefore not have to endure the risk of paying remedies until it has had sufficient time to implement the necessary OSS changes to automate the DRL ordering processes and had an opportunity to gain additional commercial experience with the new service.

Respectfully submitted,

Of Counsel
Michael E. Glover
Edward Shakin

By: _____/S/_____
Donna Epps
1515 North Court House Road
Suite 500
Arlington, VA 22201
(703) 351-3039

Attorney for the Verizon
telephone companies

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